MONTANA LEGISLATIVE HISTORY

Chapter 694 1985

Bill H _____ S 377 Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Natural Resources		
Hearing Date(s)	Mar 20	✓ C	Hearing Date(s)	Feb 20	✓ C
	3-27	✓ C			C
	4-19	✓ C			C
		C			C
Date Out	Apr 9	✓ C		Feb 21	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

4/12	SIGNED BY PRESIDENT		
4/15	SIGNED BY SPEAKER		
4/15	TRANSMITTED TO GOVERNOR		
4/18	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 541 EFFECTIVE DATE: 10/01/85		

SB 376 INTRODUCED BY TOWE, BARDANOUVE
COMMITMENT FOR OUTPATIENT TREATMENT

2/09	INTRODUCED		
2/11	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/13	REREFERRED TO JUDICIARY		
2/19	FISCAL NOTE REQUESTED		
2/20	HEARING		
2/22	COMMITTEE REPORT-BILL PASS AS AMENDED		
2/23	FISCAL NOTE RECEIVED		
2/25	2ND READING PASS	28	17
2/27	3RD READING PASS	30	20
	TRANSMITTED TO HOUSE		
3/06	REFERRED TO JUDICIARY		
3/20	HEARING		
3/30	COMMITTEE REPORT-NO RECOMMENDATION		
4/03	2ND READING CONCURRED	50	47
4/05	3RD READING NOT CONCURRED	41	56
4/05	BILL KILLED		

SB 377 INTRODUCED BY GAGE, KEATING
POOLED OIL AND GAS WELLS COST RECOVERY FROM REFUSING OWNER

2/09	INTRODUCED		
2/11	REFERRED TO NATURAL RESOURCES		
2/20	HEARING		
2/21	COMMITTEE REPORT-BILL DO PASS		
2/23	2ND READING PASS	47	0
2/25	3RD READING PASS	48	0
	TRANSMITTED TO HOUSE		
2/27	REFERRED TO NATURAL RESOURCES		
3/20	HEARING		
4/20	COMM REPORT-BILL CONCURRED AS AMENDED		
4/22	2ND READING CONCURRED	62	33
4/23	3RD READING CONCURRED	69	29
	RETURNED TO SENATE WITH AMENDMENTS		
4/25	ON MOTION RULES SUSPENDED	48	2
	TO ACCEPT TO CONSIDER HOUSE AMENDMENTS		
4/25	2ND READING AMENDMENTS CONCURRED	50	0
4/25	3RD READING AMENDMENTS CONCURRED	50	0
5/01	SIGNED BY PRESIDENT		
5/02	SIGNED BY SPEAKER		
5/02	TRANSMITTED TO GOVERNOR		
5/09	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 694 EFFECTIVE DATE: 10/01/85		

SB 378 INTRODUCED BY LANE, YELLOWTAIL
CLARIFYING THAT PESTICIDE EDUCATION FEES BE USED FOR

SENATE BILL NO. 377

INTRODUCED BY GAGE, KEATING

IN THE SENATE

February 11, 1985	Introduced and referred to Committee on Natural Resources.
February 21, 1985	Committee recommend bill do pass. Report adopted.
February 22, 1985	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass.
February 25, 1985	Considered correctly engrossed.
	Third reading, passed. Ayes, 48; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Natural Resources.
April 20, 1985	Committee recommend bill be concurred in as amended. Report adopted.
April 22, 1985	Second reading, concurred in.
April 23, 1985	Third reading, concurred in.
	Returned to Senate with amendments.

IN THE SENATE

April 23, 1985	Received from House.
April 25, 1985	On motion, rules suspended to accept SB 377. Motion adopted.
	Second reading, amendments concurred in.
	Third reading, amendments concurred in.
	Sent to enrolling
	Reported correctly enrolled.

LC 1345/01

Senate BILL NO. 377

INTRODUCED BY [signature] Keating

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR 100 PERCENT RECOVERY OF EQUIPMENT ABOVE GROUND, 300 PERCENT RECOVERY OF OTHER WELL COSTS, AND 100 PERCENT RECOVERY OF OPERATING COSTS ON OIL AND GAS WELLS IN POOLED SPACING UNITS IF AN OWNER OF AN INTEREST IN THE UNIT REFUSES TO JOIN THE UNIT; AMENDING SECTION 82-11-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-202, MCA, is amended to read:

"82-11-202. Pooling of interest within spacing unit. (1) When two or more separately owned tracts are embraced within a spacing unit or when there are separately owned interests in all or a part of the spacing unit, then the persons owning those interests may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling within the spacing unit, the board, upon the application of an interested person, may enter an order pooling all interests in the spacing unit for the development and operation thereof. The pooling order shall be made after hearing and shall be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive without unnecessary expense his just and equitable share of the oil or gas produced and saved from the spacing unit. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be considered, for all purposes, the conduct of the operations upon each separately owned tract in the spacing unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall when produced be considered for all purposes to have been produced from the tract by a well drilled thereon.

(2) (a) The pooling order shall provide for the drilling and operating of a well on the spacing unit and for the payment of the cost thereof, which cost may include a reasonable charge for supervision, handling, and storage. As to each owner who refuses to pay his share of the costs of drilling and operating the well, the order shall provide for payment of his share of the cost out of and only out of production from the well allocable to his interest in the spacing unit, excluding royalty or other interest not obligated to pay any part of the cost thereof, and excluding the royalty provided for in subsection (2)(c) of this section. If a dispute arises as to the cost, the board by order shall determine the proper cost. The order may provide in substance that the owners who agree to share in the cost

INTRODUCED BILL
SB 377

of drilling and operating the well are, unless they agree otherwise, entitled to receive, subject to royalty or similar obligations, all of the production of the well until they have recovered all of the costs out of the production, and thereafter all of the owners in the spacing unit are entitled to receive their respective shares of the production of the well as their interest may appear after deducting their respective shares of current operating costs.

(b) If an owner refuses to pay his share of the costs of drilling and operating the well, the order must include as cost:

(i) 100% of the refusing owner's share of the cost of newly acquired surface equipment beyond the wellhead connections, including but not limited to stock tanks, separators, treaters, pumping equipment, and piping, plus 100% of the refusing owner's share of the cost of operation of the well commencing with first production and continuing until the agreeing owners have recovered such costs; and

(ii) 300% of the costs and expenses of staking, well site preparation, obtaining rights-of-way, rigging up, drilling, reworking, deepening or plugging back, testing, and completing the well, after deducting any cash contributions received from the refusing owners by the agreeing owners, and 300% of that portion of the cost of

equipment in the well, including the wellhead connections.

(c) A refusing owner of an oil and gas interest in a spacing unit which is not subject to any lease or other contract for development of oil and gas is considered to own a landowner royalty equal to one-eighth of his proportionate share of production from the well until such time as the consenting owners recover the costs specified in subsection (2)(b). Any interest in production from the spacing unit to which the interest of the refusing owner may be subject must be deducted from the royalty considered to be owned by the refusing owner. After costs have been recovered by the agreeing owners, the refusing owner owns his proportionate share of the well, surface facilities, and production and is liable for further costs as if he had originally agreed to drilling of the well.

(d) The operator of a well under a pooling order in which there is a refusing owner shall upon demand furnish such owner with a monthly statement of all costs incurred, together with the quantity of oil or gas produced and the amount of proceeds realized from the sale of production during the preceding month."

-End-

STATUS SHEET

NATURAL RESOURCES COMMITTEE

49th LEGISLATURE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB365	DESIGNATION OF CONTROLLED GROUND WATER AREA	2/11	ECK	2/20	DO PASS AS AMENDED	2/22
SB369	DAM SAFETY PROGRAM	2/11	NEUMAN	2/18 2/20	DO PASS AS AMENDED	2/21
SB377	POOLED OIL AND GAS WELLS COST RECOVERY FROM REFUSING OWNER	2/12	GAGE	2/20	DO PASS	2/21
SB394	LOCAL GOVERNMENT ELECTRIC GENERATION	2/13	LYNCH		REREFERRED TO LOCAL GOVERNMENT COMM.	2/15
SB410	EXEMPT BOARD OF OIL AND GAS COMMISSION	2/15	KEATING	2/18 2/22	DO NOT PASS (minority report requested)	2/23

MINUTES OF THE MEETING
SENATE NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE
February 20, 1985

The eleventh meeting of the Senate Natural Resources Committee was called to order at 12:30 p.m., February 20, 1985, by Chairman Dorothy Eck in Room 405, State Capitol, Helena, Montana.

ROLL CALL: All members were present.

ACTION ON SB 369: The amendments that were presented to the committee at the last meeting were reviewed by Bob Thompson, staff researcher. He said this bill and the proposed amendments were proposed by the Department of State Lands to exempt those dams that were subject to a permit issued under the Hardrock Reclamation Act. The exemption was agreed to by Senator Neuman and supported by Mr. Doney after the meeting on Monday.

Senator Shaw moved the amendments.

Discussion was called for. Senator Mohar stated he hoped by not including tailings ponds in this bill, the Department would do everything that they can do in the permitting process to insure these tailings pond enclosures are adequately inspected.

Dennis Hemmer, Department of State Lands, said the reason for the amendment is because one of the problems they have run into is the tailings ponds are somewhat different than the dams you are dealing with. You do not want a tailings dam to spill. You are looking at a different type of dam and the stress factors on it are different. The situation you get into is that the dam is designed for what it is intended to do. Once it is out from under there, and it is still impounding water, which most of them that they are getting into now won't be, then it would still fall under the jurisdiction of this.

Senator Gage asked if the tailings dams were high hazard dams.

Dennis Hemmer said he is not aware of any that are currently under permit that fall under that criteria, but there are some that are grandfathered from the Hardrock Act that are.

Senator Weeding asked if they were not told the dams which were being exempted are being covered under the Hardrock legislation.

Dennis Hemmer said the dams which were not being covered are presently covered by the Water Quality Act, and there is also a public safety provision presently in the Hardrock Act. If HB 698 passes it will reinforce this.

Jeanne Charter, NPRC, testified as an opponent.

Don Reed, Montana Environmental Information Center, testified as an opponent and submitted written testimony entered into the record as Exhibit 9.

Susan Cottingham, Montana Sierra Club, spoke as an opponent and said she agrees with Mr. Fasbender's testimony and said there is tremendous public risk. She asked the committee not to pass this bill.

Helen Waller, farmer-rancher from Eastern Montana, testified against SB 348 and submitted testimony (Exhibit 10).

Dan Hienz, Montana Wildlife Association, testified as an opponent asking the committee for a "do not pass."

Mike Korn, interested citizen from Corban, Montana, testified opposing SB 348.

Russ Brown, Northern Plains Resource Council, spoke as an opponent.

There being no other proponents or opponents, the chairman called for questions from the committee.

Senator Halligan asked Mr. Mockler about the rules.

Mr. Mockler said one place they do not agree is where the rules break utilities and non-utilities apart. The other problem they have is with the alternate sites.

Senator Keating said what they are dealing with is not public property, but private property. The coal does not belong to society, neither does the water or the land. These requirements for study come long before the shovel is in the ground. There is no impact on towns until after the environmental impact studies. The Department's study is much too broad.

Senator Eck asked if they would be open to an amendment to exclude a facility where you don't have to have a subsidy or facility.

Senator Keating said, "I am opposed to any subsidy. There is up-front money in the Hardrock Mining Bill." He has no objection to the amendments with the exception of number 5.
The hearing was closed on SB 348.

CONSIDERATION OF SB 377: Senator Gage, District 22, sponsor of this bill, presented it to the committee, stating it covers pooling of interests dealing with gas. It provides for a royalty

to those people who hold an interest that do not voluntarily join and provides for those who are in that unit to cover 100 percent of the cost for certain equipment, stock tanks, and other surface-related equipment. It also provides for 300 percent of the cost, known as risk cost. He asked the committee to look at page 4, lines 2 through 21. This is for those that don't join that unit, so they are deemed to have a 1/8 royalty in the amount of the cut of that portion as if they had joined the unit. The person who owns that interest has options before he ever gets to that point. The majority of interest owners would be glad to lease that property from a person who does not belong to the unit, thus getting that person not in the unit out from under the 300 percent. This makes it clear what a non-consenting person is dealing with.

PROPONENTS: A statement was read on behalf of Mr. Campbell, of the Sawtooth Oil Company (Exhibit 11).

Other proponents were: Pat Melby, Montana Oil and Gas Association; and Darwin Van De Graaf, Montana Petroleum Association.

Dennis Hemmer, Department of State Lands, testified as a proponent. He said the trust fund comes from oil and gas.

Mike Mahoney asked the committee to support this bill.

There were no other proponents, nor any opponents.

The meeting was opened for questions from the committee.

Senator Halligan asked for an example again, which was responded to by using a 160 out of 640, which is 1/4. If a person owns 1/4 out of 640, but does not want to contribute to the pooled area, he would get his royalty share of what is produced, regardless of the penalties in this bill. However, his profit would go to 300 percent to risk costs of drilling that well and 100 percent of cost of equipping. Wyoming has the same penalties.

Senator Mohar asked if the payments are made to the developer. Senator Gage responded they would go to the developer and other interested people. The developer usually puts the money up and bills the others in the unit for their share of the cost. As far as the 300 percent penalty, everyone that participates in that unit would receive part of the 300 percent.
Senator Mohar asked if this is always on sections.

Senator Gage replied it may not be a pool. There are specifications and restrictions you must go by.

Senator Eck asked, "Suppose I am sitting with some land they want

to develop, and I feel it is a bad time to develop. Is this forcing the issue?"

Senator Tveit stated if your land is not leased, you do not have anything to play around with. If you do not want to pay, you will have to lease.

Senator Gage said it will force you into it, but there is a mechanism in the present bill that will force you into it anyway.

Mike Micone, WETA, said that you can take your case before the Commission.

The hearing was closed on SB 377.

Chairman Eck turned the chair over to Senator Halligan, so she might address the committee on the following bill.

CONSIDERATION OF SB 365: Senator Eck presented this bill to the committee as sponsor of the bill. She informed the committee this bill is at the request of the Department of Natural Resources, but by the Advisory Council for Groundwater. She said there is currently a process for controlling groundwater areas, but they recognize a problem where there might be an amount of groundwater, but it is not good water. This bill would control the quality of groundwater.

PROPONENTS: Gary Fritz, DNRC, referred to the fact that the Advisory Council for Groundwater had submitted this and said, "We're the ones that put the proposal together and are the ones that manage the administration of the controlled groundwater area statutes themselves. Right now, the statute does not allow the Board of Natural Resources, when they set special areas, to consider the effect that excessive withdrawal might have on groundwater quality and, as Senator Eck said, excessive withdrawal could pull in contaminated groundwater from other areas."

Senator Gage asked if there is a definition of groundwater in the statutes.

Bob Thompson read Section 85-2-102, subsection (8).

Senator Eck referred to a problem around Missoula.

Senator Tveit responded that a petition could be filed against an irrigator one mile away, but it would have to be filed by 20 percent of local area people.

Senator Eck made a motion to strike Section 3, the immediate effective date. MOTION PASSED UNANIMOUSLY.

ROLL CALL

Natural Resources COMMITTEE

48th LEGISLATIVE SESSION -- 1985 Date 2-20-85

- -

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (Chairman	X		
HALLIGAN, Mike (Vice Chairman)	X		
WHEELING, Cecil	X		
MOHAR, John	X		
DANIELS, M. K.	X		
FULLER, David	X		
CHRISTIAENS, Chris	X		
TVEIT, Larry	X		
GAGE, Delwyn	X		
ANDERSON, John	X		
SHAW, James	X		
HARDING, Ethel	X		

Each day attach to minutes.

R. A. CAMPBELL
JACK STARKWEATHER

SAWTOOTH OIL CO.
Telephone (406) 252-5106
1222 North 27th Street
BILLINGS, MONTANA 59101

February 15, 1985

Senator Dorothy Eck
Chairman, Natural Resources Committee
State Capitol Building
Helena, Montana 59601

Re: Senate Bill No 377
Scheduled hearing February 20th,
12:30 p.m., Room 405

Dear Chairman Eck and Committee Members:

My name is R. A. Campbell and I am the President of Sawtooth Oil Co. Our office is located in Billings, Montana, where I have resided since February, 1952 and have been continuously active in oil and gas exploration to this date.

I sincerely solicit the committee's support, passage and adoption of the proposed legislation contained in the above bill.

In the interest of the State of Montana, its' citizens and the owners of mineral interests, adoption of this legislation would enhance the search for and the development of oil and gas in this State, resulting in increased energy reserves, provide employment and generate tax income for the State. Oil and gas producing states throughout the Rocky Mountains, as well as other major oil and gas producing states, have had similar legislation, as that proposed in Senate Bill No. 377, in place for many years.

Throughout my career I have witnessed and experienced numerous occasions where wells have not been drilled primarily due to the absence of legislation such as that proposed in this bill.

As a board member of the Board of Oil and Gas Conservation, Department of Natural Resources, State of Montana for the past 14 years and acting as its' chairman for the past 12 years, I have witnessed many inequities in the search for, and production of, oil and gas within the State due to the State's lack of legislation such as that provided for in the proposed bill.

I thank you for your consideration and, again, I solicit your support for enactment.

Very truly yours,

R. A. Campbell

R. A. Campbell

jhg

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 11
DATE 022085
BILL NO. SB377

12

DATE February 20, 1985

COMMITTEE ON SENATE NATURAL RESOURCES COMMITTEE

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
DON REED	MEIC	438		✓
Jim Heintz	Montana Wildl. Federation	348		✓
Margaret MacDonald	NPRC	438		✓
Glenn Wallis	Farmers Pumpers	347		✓
Gordon Wally	" "	348		X
Lon Dorgan	Zonia	348		X
Gary Fritz	DNRC	365	X	
Rick Brasch	DNRC	365	X	
Dennis Hemmer	Dept of State Lands	377	✓	
Pat Underwood	MT Farm Bureau	348	✓	
Mike Micken	WETA	377 348	✓	
Jim Mockler	Mt. Coal Council	348	✓	
Susan Cottingham	Mt Sierra Club	348		✓
Michael Korn	citizen	348		✓
Pat Melby	Mont Oil + Gas Assn	377	✓	
Russ Brown	NPRC	348		✓
Jeanne Chanter	NPRC	448		✓
Wanda Grant	MT Petroleum Assn	377	✓	
Jane Lind	DNRC	348		✓
Neil Jamison	DNRC	348		✓
Alex Hitman	Board of Oil & Gas	377	✓	
Scott Shanahan	Montana Mineral Ass	348	✓	
Donald Allen	Mont Chamber	348	✓	
B-K Kitman	DNRC			✓

(Please leave prepared statement with Secretary)

FEBRUARY 21, 1985

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL No. 377

FIRST reading copy (WHITE color)

POOLED OIL AND GAS WELLS COST RECOVERY FROM REFUSING OWNER

Respectfully report as follows: That SENATE BILL No. 377

DO PASS

~~DO NOT PASS~~

SENATOR DOROTHY ECK Chairman.

(To be kept current -- post bills when entering being heard or leaving committee.) Form CS-32

STATUS SHEET

49TH LEGISLATIVE SESSION

COMMITTEE ON NATURAL RESOURCES

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 377	2/27	3/20 4/19 3/27					4/19		
SB 415	3/8/85	3/22	3/22				3/22		

Use a separate sheet for Senate, House Bills, and Resolutions

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 20, 1985

The meeting of the House Natural Resources Committee was called to order by Chairman Dennis Iverson at 4:30 p.m. in Room 312-1 of the State Capitol.

ROLL CALL: All members of the committee were present except for Rep. Asay, who was excused.

SENATE BILL 258: Senate Bill 258 was introduced by the sponsor, Sen. Larry Tveit, District 11. He told the committee that SB 258 would revise laws governing payment for surface damage done in the process of oil and gas development. He told the committee that in many cases, surface owners do not hold the rights to minerals that lie below that land. The mineral rights may supercede surface rights, he said, and occasionally, surface owners receive no notification of a developer's intent to commence drilling for minerals. SB 258 would require notification of intent to develop mineral rights, and spell out the terms of compensation for damage done to surface land in developing those mineral rights.

No proponents nor any opponents addressed SB 258.

Rep. Addy asked how much notice a developer must give to the surface owner, and Sen. Tveit told him that no notice was necessary under current law. Rep. Addy then asked if there would be a penalty under SB 258 for failure to give such notice. Sen. Tveit told him that no penalty could be included in the bill, because the mineral developer would be exercising his option to develop his legal mineral rights. Rep. Addy commented that without a penalty, it appears that SB 258 is "just giving advice."

Rep. Krueger maintained that the holder of the mineral rights is exercising a right to enter property through lease or contract, and lease and contract rights can be overridden by statutory provision. Therefore, he said, the legislature can impose a penalty for failure to give notice.

Rep. Raney suggested that the committee add a time period to the notice provision of the bill. In that way, he said, the penalty could be imposed for failure to give the proper notice, and not imposed for the actual entry onto the land.

Rep. Miles said a notice provision already exists in the general provisions covering oil and gas leasing and exploration.

Senator Tveit closed the hearing on SB 258 by noting that the bill could be delayed until the committee confirms whether notice provisions are covered elsewhere, but urged passage of the other terms of the bill.

SENATE BILL 96: SB 96 was introduced by Sen. Del Gage, District 5. He explained that the bill updates laws pertaining to seismic exploration by making it clear that exploration done by nonexplosive means is covered under the same statutes that cover exploration done with explosives. The bill is basically a response to technological developments in the field of mineral exploration, he said. In addition to covering exploration done with both explosives and nonexplosives, SB 96 makes a needed distinction between seismic and geophysical exploration, said Sen. Gage.

There were no further proponents of the bill, no opponents, and no questions from committee.

Sen. Gage closed by urging a favorable vote on SB 96.

SENATE BILL 377: Sen. Del Gage introduced SB 377, which he sponsored. He explained that the bill provides for 100% recovery of equipment above ground, 300% recovery of other well costs, and 100% recovery of operating costs on oil and gas wells in pooled spacing units if an owner of an interest in the unit refuses to join the unit.

Dennis Hemmer, speaking on behalf of the department of state lands, said the department supports SB 377, because the bill makes the burdens and profits of participation in pooled spacing units equitable to all, and protects the rights of the mineral owner.

No opponents appeared to speak against SB 377.

Rep. Driscoll asked who the owner would be in the situations covered by SB 377, and Sen. Gage told him the owner is the owner of the working interest in the well involved.

Sen. Gage closed without comment.

EXECUTIVE ACTION

SENATE BILL 377: Rep. Jones moved that SB 377 BE CONCURRED IN. Rep. Iverson said that page 3, line 20 should be amended for clarity, and Rep. Addy moved that the line be amended to read "300% of the refusing owner's share". That amendment was unanimously approved.

Researcher Hugh Zackheim suggested that an extension of rulemaking authority be added to the bill to cover the inclusion of 82-11-111 MCA. Rep. Kadas so moved, and that amendment passed unanimously.

Rep. Addy moved that SB 377 BE CONCURRED IN AS AMENDED.

Rep. Cobb then questioned whether 300%, as specified on page 3, line 20, regarding the costs and expenses of developing a well, is an optimum figure. He moved that figure be amended to 200% on that line and throughout the bill. Rep. Raney said 200% does not allow for proper punishment of the refusing party. Rep. Cobb said those people should be penalized, but that 300% is too high a figure. Rep. Cobb's motion to amend was passed 10-7 on a roll call vote. A copy of that vote is attached hereto, following the standing committee reports.

The committee then voted on Rep. Addy's motion that the bill be concurred in, which was unanimously approved.

The committee then went out of executive action, and opened the hearing on SB 326.

SENATE BILL 326: Senate Bill 326 was introduced by the sponsor, Sen. Matt Himsl, District 3. The bill provides that ground water may be appropriated only by a person who is or has the consent of the exclusive owner of the ground water development works. Sen. Himsl told the committee that the bill was prompted by a situation that occured in the Kalispell area in which a single homeowner was able to appropriate 1/3 of the water allocated for a subdivision of 15 homes, leaving the remaining 2/3 to be distributed among 14 homeowners. The DNRC had no choice but to issue the certificate of appropriation under current statute, said Sen. Himsl.

There were no proponents and no opponents to speak on SB 326.

Rep. Miles commented that Section 1(3) of the bill does not appear to address groundwater, and is inconsistent with the title, which specifically refers to the appropriation of groundwater.

Sen. Himsl closed without comment.

EXECUTIVE ACTION

SENATE BILL 326: Rep. Cobb moved that SB 326 BE CONCURRED IN. Rep. Miles moved to amend the bill on page 1, lines 11 and 12, by striking the phrase "Appropropriation of groundwater -- " and reinserting previous language that would apply to all parts of the bill. That motion was passed unanimously.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date MARCH 20, 1985

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom			
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

CS-30

ROLL CALL VOTE

HOUSE COMMITTEE NATURAL RESOURCES

DATE 3/20 BILL NO. SB 377 TIME 5:20

NAME	AYE	NAY
IVERSON, Dennis (Chairman)		X
KADAS, Mike (Vice-Chairman)		X
ADDY, Kelly		X
ASAY, Tom		
COBB, John	X	
DRISCOLL, Jerry	X	
GARCIA, Rodney	X	
GRADY, Edward	X	
HARP, John	X	
JONES, Tom		X
KRUEGER, Kurt		X
MILES, Joan	X	
MOORE, Janet	X	
O'HARA, Jesse		X
PETERSON, Mary Lou	X	X
RANEY, Bob		
REAM, Bob		
SMITH, Clyde	X	
	10	7

Secretary Chairman

Motion: Amend 300% to 200% - Cobb

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEE

BILL NO. SB 377 DATE 3/20/85

SPONSOR Sen. Gage

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dee Rickman	Helena	✓	
Dennis Hemmer	Helena-Dept of State Lands	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 27, 1985

The meeting of the Natural Resources Committee was called to order by Chairman Dennis Iverson at 8:15 p.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members of the committee were present.

SENATE BILL 112: Rep. Raney said that he had been asked by Sen. Pete Story, sponsor of SB 112, to move that the bill be tabled. Rep. Raney so moved, and the motion was passed unanimously.

SENATE BILL 377: Rep. Cobb told the committee that he did not fully understand SB 377, and did not think the amendments to the bill that he had proposed and that the committee had earlier passed were sufficient to solve the problems inherent in the bill. Rep. Cobb moved to table SB 377, which passed with Reps. Iverson, Addy and O'Hara voting no.

SENATE BILL 277: Rep. Krueger moved DO NOT PASS on SB 277. Rep. Miles spoke against the motion, saying the committee should have more information about the status of SB 277 and a similar bill, HB 913. She said that some provisions of SB 277 are worth consideration, such as the directive that legacy projects should be prioritized with regard to whether they will create or maintain needed jobs.

Rep. Krueger agreed that the provision Rep. Miles mentioned is a good one, but suggested that it might be incorporated by amendment into HB 913, which is a much preferable bill. HB 913 addresses the intent of the legislature as to how legacy funds should be allocated, and is not too categorized in doing so, said Rep. Krueger.

Rep. Miles asked if the House would get another chance to examine HB 913, and Rep. Iverson told her yes, because the bill has been amended by the Senate. Rep. Miles said the House had not looked closely enough at HB 913. She stated a concern that industry might be able to apply for legacy funds with which to clean up problems they had created. That possibility would not exist under the provisions of SB 277, she said.

Rep. Ream said he was uncomfortable with attempts to eliminate SB 277, and said he supported that legacy fund bill.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 27, 1985

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

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MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

April 19, 1985

The meeting of the Natural Resources Committee was called to order at 4:45 p.m. in Room 312-1 of the State Capitol by Chairman Dennis Iverson.

ROLL CALL: Representatives Jones, Harp and Ream were excused; all other members were present.

DISCUSSION OF SB 377: Rep. Asay opened by moving that the committee reconsider its action on SB 377. That bill was tabled in committee on March 27, on a motion by Rep. Cobb. SB 377, introduced by Sen. Del Gage, would provide for recovery of costs on oil and gas wells in pooled spacing units if an owner of an interest in the unit refuses to join the unit.

Rep. Addy asked Rep. Cobb what problems Cobb previously had with the bill that he does not have now. Rep. Cobb replied that he still does not support SB 377, because it would force landowners to become part of leasing programs against their will.

Rep. Smith countered that SB 377 simply takes care of foot-dragging landowners who want part of the profits, but none of the risks and costs of development.

Rep. Driscoll stated that even if a landowner were forced to take part in the pooled spacing unit, the only effect would be that the landowner would share the profits. The landowner would not be charged for development costs in the event of a dry hole, he said.

Because Rep. Bardanouve appeared to open the hearing on HJR 46, the committee agreed to delay further action on SB 377 until later in the meeting.

HOUSE JOINT RESOLUTION 46: HJR 46 was introduced by the sponsor, Rep. Francis Bardanouve, District 16. The bill requests an interim study to examine the consolidation of all boards and programs to assist communities experiencing impacts related to nonrenewable resource development. Rep. Bardanouve said it would benefit the state to have a broad board that would deal with the impacts of all mineral development, rather than separate boards for each industry. A consolidated board would be more efficient, and could easily move funds and manpower to areas that are in need, he said.

EXECUTIVE ACTION ON HJR 46: Rep. Asay moved DO NOT PASS on HJR 46. He said he objects to the idea that coal money has not been widely distributed throughout Montana. He said he has supported bill that would use coal tax money to allevaite problems statewide. The state should not abuse those counties that provide coal tax revenue, he said. Those areas rely on the coal board to mitigate effects of coal development. He said the coal board has a history of diligent and effective work, and should not be condemned.

Rep. Addy said Rep. Asay's comments were good, and should be made to the study committee set up under HJR 46.

Rep. Kadas said he did not believe that HJR 46 was a "witch hunt" after the coal board. The bill simply provides an opportunity to determine the best way to address the effects of resource development, he said.

Rep. Raney said that Montana has dealt with development for the last 100 years, and has arrived at what seems to be a workable situation, with various boards to oversee various industries. HJR 46 "may be an effort in futility," he said.

Rep. Krueger said he could see no need for the bill, except for a possible fiscal savings. However, funding to address resource development impacts is too limited anyway, he said. The people affected by those industries need as much expertise on their side as possible, he said, and that expertise is provided by the various boards.

Rep. Garcia commented that HJR 46 simply calls for study of the consolidation, it does not require that such consolidation take place.

Rep. Miles said she was opposed to Rep. Asay's motion, and called some of the opponents' testimony "absurd." HJR 46 is an attempt to find the best ways to support those communities affected by resource development, and should be supported, she said.

Rep. Asay's DO NOT PASS motion was approved on a roll call vote, 8-7. A copy of that vote is attached hereto.

EXECUTIVE ACTION ON SB 377: Rep. Asay moved that SB 377 BE CONCURRED IN. Rep. Grady said he was in favor of the bill, and noted that the bill had no opposition in committe, nor in the Senate. He said SB 377 does not force landowner participation in pooled spacing units, it "addresses the guy who's holding out for money."

The motion passed on a voice vote, with Reps. Miles, Kadas and Cobb voting no.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 4/19/85

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John			X
JONES, Tom			X
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob			X
SMITH, Clyde	X		

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STANDING COMMITTEE REPORT

HOUSE

April 19 19 85

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL 377 Bill No.

THIRD reading copy (BLUE color)

AN ACT PROVIDING FOR 100 PERCENT RECOVERY OF EQUIPMENT ABOVE GROUND, 200 PERCENT RECOVERY OF OTHER WELL COSTS, AND 100 PERCENT RECOVERY OF OPERATING COSTS ON OIL AND GAS WELLS IN POOLED SPACING UHITS IF AN OWNER OF AN INTEREST IN THE UNIT REFUSES TO JOIN THE UNIT

Respectfully report as follows: That SENATE BILL 377 Bill No.

BE AMENDED AS FOLLOWS:

1) Title, line 5.
Strike: "300"
Insert: "200"

2) Page 3, line 20.
Following: "(ii)"
Strike: "300%"
Insert: "200% of the refusing owner's share"

3) Page 3, line 25.
Strike: "300%"
Insert: "200%"

AND AS AMENDED,

BE CONCURRED IN

SL 4/20

Rep. DENNIS IVERSON, Chairman.

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SENATE BILL NO. 377

INTRODUCED BY GAGE, KEATING

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR 100 PERCENT RECOVERY OF EQUIPMENT ABOVE GROUND, ~~300~~ 200 PERCENT RECOVERY OF OTHER WELL COSTS, AND 100 PERCENT RECOVERY OF OPERATING COSTS ON OIL AND GAS WELLS IN POOLED SPACING UNITS IF AN OWNER OF AN INTEREST IN THE UNIT REFUSES TO JOIN THE UNIT; AMENDING SECTION 82-11-202, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-202, MCA, is amended to read:

"82-11-202. Pooling of interest within spacing unit. (1) When two or more separately owned tracts are embraced within a spacing unit or when there are separately owned interests in all or a part of the spacing unit, then the persons owning those interests may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling within the spacing unit, the board, upon the application of an interested person, may enter an order pooling all interests in the spacing unit for the development and operation thereof. The pooling order shall be made after hearing and shall be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive without unnecessary expense his just and equitable share of the oil or gas produced and saved from the spacing unit. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be considered, for all purposes, the conduct of the operations upon each separately owned tract in the spacing unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall when produced be considered for all purposes to have been produced from the tract by a well drilled thereon.

(2) (a) The pooling order shall provide for the drilling and operating of a well on the spacing unit and for the payment of the cost thereof, which cost may include a reasonable charge for supervision, handling, and storage. As to each owner who refuses to pay his share of the costs of drilling and operating the well, the order shall provide for payment of his share of the cost out of and only out of production from the well allocable to his interest in the spacing unit, excluding royalty or other interest not obligated to pay any part of the cost thereof, and excluding the royalty provided for in subsection (2)(c) of this section. If a dispute arises as to the cost, the board by order shall determine the proper cost. The order may provide in substance that the owners who agree to share in the cost

SB 0377/02

of drilling and operating the well are, unless they agree otherwise, entitled to receive, subject to royalty or similar obligations, all of the production of the well until they have recovered all of the costs out of the production, and thereafter all of the owners in the spacing unit are entitled to receive their respective shares of the production of the well as their interest may appear after deducting their respective shares of current operating costs.

(b) If an owner refuses to pay his share of the costs of drilling and operating the well, the order must include as cost:

(i) 100% of the refusing owner's share of the cost of newly acquired surface equipment beyond the wellhead connections, including but not limited to stock tanks, separators, treaters, pumping equipment, and piping, plus 100% of the refusing owner's share of the cost of operation of the well commencing with first production and continuing until the agreeing owners have recovered such costs; and

(ii) ~~300%~~ 200% OF THE REFUSING OWNER'S SHARE of the costs and expenses of staking, well site preparation, obtaining rights-of-way, rigging up, drilling, reworking, deepening or plugging back, testing, and completing the well, after deducting any cash contributions received from the refusing owners by the agreeing owners, and ~~300%~~ 200% of

that portion of the cost of equipment in the well, including the wellhead connections.

(c) A refusing owner of an oil and gas interest in a spacing unit which is not subject to any lease or other contract for development of oil and gas is considered to own a landowner royalty equal to one-eighth of his proportionate share of production from the well until such time as the consenting owners recover the costs specified in subsection (2)(b). Any interest in production from the spacing unit to which the interest of the refusing owner may be subject must be deducted from the royalty considered to be owned by the refusing owner. After costs have been recovered by the agreeing owners, the refusing owner owns his proportionate share of the well, surface facilities, and production and is liable for further costs as if he had originally agreed to drilling of the well.

(d) The operator of a well under a pooling order in which there is a refusing owner shall upon demand furnish such owner with a monthly statement of all costs incurred, together with the quantity of oil or gas produced and the amount of proceeds realized from the sale of production during the preceding month."

-End-